



ASSEMBLEIA DA REPÚBLICA

EUROPEAN AFFAIRS COMMITTEE

WRITTEN OPINION

COM (2010) 738 Final

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards marketing standards

In accordance with Law 43/2006 of 25 August, which regulates the monitoring, assessment and pronouncement by the Assembleia da República within the scope of the process of constructing the European Union and in line with the procedures for the scrutiny of European initiatives approved on 20 January 2010, the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards marketing standards [COM(2010)738] was referred to the European Affairs Committee for assessment on 16 December 2010.

As a proposed legislative act, under the Protocol on the application of the principles of subsidiarity and proportionality, annexed to the Treaty of Lisbon, a letter was sent on 17 December 2010 advising of the start of the 8-week time period.

The initiative under consideration was referred to the Agriculture, Rural Development and Fisheries Committee as the Committee with responsibility for the matter in question, which decided not to scrutinise the initiative, giving no justification for this decision.



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Thus, the initiative under consideration necessitates an analysis of the following aspects:

a) Legal basis

In accordance with Article 4(2)d of the TFEU, the European Union has shared competence with Member States as regards Agriculture. In this area and in order to achieve the objectives established in Article 39 of the TFEU, the European Union is able to establish the common organisation of agricultural markets, in accordance with Article 43(2) of the TFEU.

Given that this initiative aims to consolidate and simplify various legislation through amending the pre-existing Regulation (Council Regulation (CE) No. 1234/2007) as part of the European Better Regulation and Smart Regulation programmes, the aforementioned legal basis is considered adequate for the purpose and content of the initiative.

b) Principle of Subsidiarity

Whereas this initiative aims to provide "*producers with the right tools to communicate product characteristics and farming attributes to buyers and consumers, and to protect them against unfair trading practices*";

Whereas a European market for agricultural products exists;

Whereas this initiative intends to regulate the system for assigning names and terms relating to the inherent quality and characteristics of certain agricultural products;

Whereas the intention is that, in particular, consumers anywhere in Europe associate the aforementioned names and terms with the respective attributes; and

Whereas the initiative ensures that national authorities closest to production have initial control of all systems for assigning names and terms;



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In light of these recitals, it would appear that the general objectives outlined by the initiative under analysis would not be sufficiently achieved at individual Member State level, but rather at European Union level, so therefore would not involve any violations of the principle of subsidiarity.

While this is true for the majority of the proposed Regulation, there are, however, aspects of the proposed amendments where the opposite appears to be the case. As noted in the Opinion issued by the Parliament of Luxembourg, the proposal gives sweeping powers to the European Commission to adopt new marketing standards, by sector and by product, covering all stages of marketing. Similarly, it delegates to the European Commission the power to introduce amendments and/or derogations in order to adapt to technological developments and/or changes in consumer preferences. Finally, it gives the Commission the option of amending annexes, allowing it to introduce new rules regarding oenological practices.

All these powers were not previously held by the European Commission under the original legislative act that gave rise to the Regulation currently in force and which this initiative intends to amend. Therefore, all the amendments proposed with the purpose of extending powers, establishing delegations or allowing the introduction of new rules that did not exist before, conferring powers and responsibilities not previously granted by the original legislative act, could be seen to conflict with the principle of subsidiarity.

c) Content of the initiative

The initiative under analysis is of particular importance for the agricultural sector in Portugal, therefore a more detailed and comprehensive substantive analysis of this initiative should be carried out, for which eight weeks does not provide sufficient time.



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Opinion

In view of the above, the European Affairs Committee is of the opinion that:

1. This initiative could violate, albeit partially, the principle of subsidiarity in that there are amendments proposed with the intention of extending powers, establishing delegations and allowing the introduction of new rules that did not exist before, conferring powers and responsibilities not previously granted by the original legislative act.
2. With respect to substantive issues in general, we believe that, given the general significance the proposed amendments to the regulation could have to the agricultural sector, the Assembleia da República should consider the possibility of continuing to monitor this initiative and drawing up an opinion analysing the policy options relating to the European Commission initiative as well as its full impact on the Portuguese agricultural sector, namely within the competence of the Agriculture, Rural Development and Fisheries Committee. This opinion that may result from this will be assessed and, if found to be suitable, subsequently forwarded to the European institutions within the context of political dialogue.

Lisbon, 8 February 2010.

Opinion drawn up by MP – *Honório Novo*

Committee Chairman – *Vitalino Canas*